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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/554,065

12/14/2006

Stephen Brennom

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EXAMINER

MAUST, TIMOTHY LEWIS

ART UNIT

PAPER NUMBER

3751

MAIL DATE

DELIVERY MODE

12/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/554,065	Applicant(s) BRENNOM, STEPHEN	
	Examiner Timothy L. Maust	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 0909.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11-14 and 17-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21, 22 is/are allowed.
- 6) ☒ Claim(s) 1-8, 11, 12, 14, 17, 18 and 20-32 is/are rejected.
- 7) ☒ Claim(s) 13 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to the present claims have been considered but are moot in view of the new ground(s) of rejection. Further, due to a misinterpretation of the claimed subject matter (i.e., the structure of a loop), the following supplemental Final rejection is hereby replacing the Final Office action of 10/9/09.

Claim Objections

Claim 20 is objected to because of the following informalities: In lines 2 and 3, "filling" should be "filling". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8, 11 and 23-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Edwards (5938325).

Regarding claim 1, the Edwards reference discloses an apparatus (see Figure 5) comprising: A center member (12); and a plurality of damper members (20) connected

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to the center member; each of the damper members forming a loop that extends in a radial direction away from the center member.

Regarding claim 8, see rod (12).

Regarding claim 11, the damper members (20) are made of plastic (see col. 4, lines 3-7).

Regarding claims 23-28, the damper members are rotationally distinct from each other, adjustable, substantially horizontal, provide substantial coverage and are axially spaced each on one 180 degree radius, as claimed.

Claims 1, 8, 12 and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Khan et al. (5482367).

Regarding claim 1, the Khan et al. reference discloses an apparatus (see Figures 1 and 2) comprising: A center member (1); and a plurality of damper members (2-4) connected to the center member; each of the damper members forming a loop that extends in a radial direction away from the center member.

Regarding claim 8, see rod (1).

Regarding claim 12, see locking portion (6) that attaches longitudinal member (5) around center member (1).

Regarding claims 25-27, the damper members are substantially horizontal, provide substantial coverage and are axially spaced, as claimed.

Claims 1, 2, 6-8, 14 and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Ryntveit et al. (5247970)

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Regarding claim 1, the Ryntveit et al. reference discloses an apparatus (see Figures 2 and 3) comprising: A center member (4); and a plurality of damper members (8; see Figure 3) connected to the center member; each of the damper members forming a loop that extends in a radial direction away from the center member.

Regarding claim 8, see articulated rod, wire, chain or the like (4; see col. 2, lines 25-27).

Regarding claims 25-27, the damper members are substantially horizontal, provide substantial coverage and are axially spaced, as claimed.

Regarding claims 2 and 14, the method as claimed would be inherent during normal use and operation of the device.

Regarding claims 6 and 7, the articulated rod (4) would inherently break into sections at eyelets (9) as the device is pulled vertically upward and out of the tube.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryntveit et al. in view of Minami (5795550).

Regarding claims 3-5, the Ryntveit et al. reference discloses the invention substantially as claimed (discussed supra) including automatically winding in of the

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center member as the tube is loaded, but doesn't disclose having a sensor that is utilized communicate the position of the center member. However, the Minami reference discloses another catalyst loading tool having a distance sensor 88 that determines the distance between the loading tool and the catalyst bed to keep the proper distance between the two. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Ryntveit et al. device to have a distance sensor (if not already) in view of the teachings of the Minami reference in order to keep the proper distance between the loading tool and catalyst bed. The first and second portions being the unit (unlabeled; see col. 3, lines 12-14) and the lower portion of the center member (4) adjacent the catalyst bed.

Claims 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryntveit et al.

The Ryntveit et al. reference discloses the invention substantially as claimed (discussed supra), but doesn't disclose the damper members being made of plastic. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the Ryntveit et al. damper members of plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416

Allowable Subject Matter

Claims 21 and 22 are allowed.

Claims 13 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art pertains to various devices having similar structure to that of the Applicant's device.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 7:00-5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy L Maust/
Primary Examiner
Art Unit 3751

12/18/09